

Union Calendar No. 382

104TH CONGRESS
2D Session

H. R. 3487

[Report No. 104-717]

A BILL

To reauthorize the National Marine Sanctuaries
Act, and for other purposes.

JULY 29, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To reauthorize the National Marine Sanctuaries Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1996

Mr. SAXTON (for himself and Mr. FARR of California) introduced the following bill; which was referred to the Committee on Resources

JULY 29, 1996

Additional sponsors: Mrs. CLAYTON, Mr. GEJDENSON, Mr. DEUTSCH, Mr. TORKILDSEN, Mrs. SEASTRAND, Mr. BEILENSEN, Mr. GILCHREST, Mr. FALCOMA, Mr. LONGLEY, Mr. CAMPBELL, Mr. CANADY of Florida, Ms. WOOLSEY, Mr. PORTER, Mr. RIGGS, Mr. GOSS, Mr. JONES, and Mr. GALLEGLY

JULY 29, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 16, 1996]

A BILL

To reauthorize the National Marine Sanctuaries Act, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “National Marine Sanc-*
3 *tuaries Preservation Act”.*

4 **SEC. 2. AMENDMENT OF NATIONAL MARINE SANCTUARIES**
5 **ACT.**

6 *Except as otherwise expressly provided, whenever in*
7 *this Act an amendment or repeal is expressed in terms of*
8 *an amendment to, or repeal of, a section or other provision,*
9 *the reference shall be considered to be made to a section or*
10 *other provision of the National Marine Sanctuaries Act (16*
11 *U.S.C. 1431–1445a).*

12 **SEC. 3. REAUTHORIZATION OF THE NATIONAL MARINE**
13 **SANCTUARIES ACT.**

14 *Section 313 (16 U.S.C. 1444) is amended to read as*
15 *follows:*

16 **“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

17 *“There are authorized to be appropriated to the Sec-*
18 *retary to carry out this title—*

19 *“(1) \$12,000,000 for fiscal year 1997;*

20 *“(2) \$15,000,000 for fiscal year 1998; and*

21 *“(3) \$18,000,000 for fiscal year 1999.”.*

22 **SEC. 4. MANAGEMENT, RECOVERY, AND PRESERVATION**
23 **PLAN FOR U.S.S. MONITOR.**

24 *The Secretary of Commerce shall, within 12 months*
25 *after the date of the enactment of this Act, prepare and sub-*
26 *mit to the Committee on Resources of the House of Rep-*

1 *representatives and the Committee on Commerce, Science, and*
 2 *Transportation of the Senate a long-range, comprehensive*
 3 *plan for the management, stabilization, preservation, and*
 4 *recovery of artifacts and materials of the United States*
 5 *Ship Monitor. In preparing and implementing the plan,*
 6 *the Secretary shall to the extent feasible utilize the resources*
 7 *of other Federal and private entities with expertise and ca-*
 8 *pabilities that are helpful.*

9 **SEC. 5. PUBLICATION OF NOTICE OF CERTAIN ADVISORY**
 10 **COUNCIL MEETINGS.**

11 *Section 315(e)(3) (16 U.S.C. 1445a(e)(3)) is amended*
 12 *by inserting before the period at the end the following: “,*
 13 *except that in the case of a meeting of an Advisory Council*
 14 *established to provide assistance regarding any individual*
 15 *national marine sanctuary the notice is not required to be*
 16 *published in the Federal Register”.*

17 **SEC. 6. ENHANCING SUPPORT FOR NATIONAL MARINE**
 18 **SANCTUARIES.**

19 *(a) INCORPORATION OF EXISTING PROVISION.—Sec-*
 20 *tion 316 (16 U.S.C. 1445 note) is redesignated as section*
 21 *317, section 2204 of the National Marine Sanctuaries Pro-*
 22 *gram Amendments Act of 1992 (106 Stat. 5049) is moved*
 23 *so as to appear in the National Marine Sanctuaries Act*
 24 *following section 315, and that moved section is designated*
 25 *as section 316 of the National Marine Sanctuaries Act.*

1 (b) *AMENDMENT OF INCORPORATED SECTION.*—Sec-
 2 tion 316, as moved and designated by subsection (a) of this
 3 section, is amended as follows:

4 (1) Subsections (a), (g), and (h) are struck, and
 5 subsections (b), (c), (d), (e), and (f) are redesignated
 6 as subsections (a), (b), (c), (d), and (e), respectively.

7 (2) In subsection (a), as so redesignated, the
 8 matter preceding paragraph (1) is struck and the fol-
 9 lowing is inserted:

10 “(a) *AUTHORITY.*—The Secretary may establish a pro-
 11 gram consisting of—”.

12 (3) In subsection (a)(5), as so redesignated—

13 (A) “establishment” is struck and “solicita-
 14 tion” is inserted; and

15 (B) “fees” is struck and “monetary or in-
 16 kind contributions” is inserted.

17 (4) In subsection (a)(6), as so redesignated—

18 (A) “fees” is struck and “monetary or in-
 19 kind contributions” is inserted;

20 (B) “paragraph (5)” is struck and “para-
 21 graphs (5) and (6)” is inserted;

22 (C) “assessed” is struck and “collected” is
 23 inserted; and

24 (D) “in an interest-bearing revolving fund”
 25 is struck.

1 (5) *In subsection (a)(7), as so redesignated—*

2 (A) *“and use” is inserted after “expendi-*
3 *ture”;*

4 (B) *“fees” is struck and “monetary and in-*
5 *kind contributions” is inserted; and*

6 (C) *“and any interest in the fund estab-*
7 *lished under paragraph (6)” is struck.*

8 (6) *In subsection (a), as so redesignated, para-*
9 *graphs (5), (6), and (7) are redesignated in order as*
10 *paragraphs (6), (7), and (8), and the following new*
11 *paragraph is inserted after paragraph (4):*

12 *“(5) the creation, marketing, and selling of prod-*
13 *ucts to promote the national marine sanctuary pro-*
14 *gram, and entering into exclusive or nonexclusive*
15 *agreements authorizing entities to create, market or*
16 *sell on the Secretary’s behalf;”.*

17 (7) *The following new sentence is added at the*
18 *end of subsection (a), as so redesignated:*

19 *“Monetary and in-kind contributions raised through the*
20 *sale, marketing, or use of symbols and products related to*
21 *an individual national marine sanctuary shall be used to*
22 *support that sanctuary.”.*

23 (8) *In subsection (e), as so redesignated—*

24 (A) *paragraph (2) is struck;*

1 (B) in paragraph (1), “(1)” is struck, and
 2 subparagraphs (A), (B), (C), and (D) are redes-
 3 ignated as paragraphs (1), (2), (3), and (4); and
 4 (C) in paragraph (3), as so redesignated,
 5 “fee” is struck and “monetary or in-kind con-
 6 tribution” is inserted.

7 (9) In each of subsections (b), (c), and (d), as so
 8 redesignated, by striking “subsection (b)” and insert-
 9 ing “subsection (a)”.

10 **SEC. 7. HAWAIIAN ISLANDS NATIONAL MARINE SANCTUARY.**

11 Section 2305 of the Hawaiian Islands National Ma-
 12 rine Sanctuary Act (16 U.S.C. 1433 note) is amended—

13 (1) in subsection (a)—

14 (A) by striking “(A)” and inserting “(a)”;
 15 and

16 (B) by striking “the area described in sub-
 17 section (b) is” and inserting “the area described
 18 in subsection (b)(1) and any area included
 19 under subsection (b)(2) are”;

20 (2) by amending subsection (b)(2) to read as fol-
 21 lows:

22 “(2)(A) Within 6 months after the date of receipt of
 23 a request in writing from the Kahoolawe Island Reserve
 24 Commission for inclusion within the Sanctuary of the area
 25 of the marine environment within 3 nautical miles of the

1 mean high tide line of Kahoolawe Island (in this section
 2 referred to as the ‘Kahoolawe Island waters’), the Secretary
 3 shall determine whether those waters may be suitable for
 4 inclusion in the Sanctuary.

5 “(B) If the Secretary determines under subparagraph
 6 (A) that the Kahoolawe Island waters may be suitable for
 7 inclusion within the Sanctuary—

8 “(i) the Secretary shall provide notice of that de-
 9 termination to the Governor of Hawaii; and

10 “(ii) the Secretary shall prepare a supplemental
 11 environmental impact statement, management plan,
 12 and implementing regulations for that inclusion in
 13 accordance with this Act, the National Marine Sanc-
 14 tuaries Act, and the National Environmental Policy
 15 Act of 1969.

16 “(C) Amounts may be appropriated to carry out this
 17 paragraph under the authority provided in section 313 of
 18 the National Marine Sanctuaries Act.”; and

19 (3) by amending subsection (c) to read as fol-
 20 lows:

21 “(c) *EFFECT OF OBJECTION BY GOVERNOR.—*(1)(A)
 22 *If, within 45 days after the date of issuance of the com-*
 23 *prehensive management plan and implementing regulations*
 24 *under section 2306, the Governor of Hawaii certifies to the*
 25 *Secretary that the management plan, the implementing reg-*

1 *ulations, or any term of the plan or regulations is unaccept-*
 2 *able, the management plan, regulation, or term, respec-*
 3 *tively, shall not take effect in the area of the Sanctuary*
 4 *lying within the seaward boundary of the State of Hawaii.*

5 “(B) *If the Secretary considers that an action under*
 6 *subparagraph (A) will affect the Sanctuary in such a man-*
 7 *ner that the policy or purposes of this title cannot be ful-*
 8 *filled, the Secretary may terminate the designation under*
 9 *subsection (a). At least 30 days before that termination, the*
 10 *Secretary shall submit written notice of the termination to*
 11 *the Committee on Resources of the House of Representatives*
 12 *and the Committee on Commerce, Science, and Transpor-*
 13 *tation of the Senate.*

14 “(2)(A) *If, within 45 days after the Secretary issues*
 15 *the documents required under subsection (b)(2)(B)(ii), the*
 16 *Governor of Hawaii certifies to the Secretary that the inclu-*
 17 *sion of the Kahoolawe Island waters in the Sanctuary or*
 18 *any term of that inclusion is unacceptable—*

19 “(i) *the inclusion or the term shall not take ef-*
 20 *fect; and*

21 “(ii) *subsection (b)(2) shall not apply during the*
 22 *3-year period beginning on the date of that certifi-*
 23 *cation.*

24 “(B) *If the Secretary considers that an action under*
 25 *subparagraph (A) regarding a term of the inclusion of the*

1 *Kahoolawe Island waters will affect the inclusion or the ad-*
 2 *ministration of the Kahoolawe Island waters as part of the*
 3 *Sanctuary in such a manner that the policy or purposes*
 4 *of this title cannot be fulfilled, the Secretary may terminate*
 5 *that inclusion.*

6 “(3) *Amounts may be appropriated to carry out this*
 7 *subsection under the authority provided in section 313 of*
 8 *the National Marine Sanctuaries Act.*”.

9 **SEC. 8. FLOWER GARDEN BANKS BOUNDARY MODIFICA-**
 10 **TION.**

11 (a) *MODIFICATION.*—*Notwithstanding section 304 of*
 12 *the National Marine Sanctuaries Act (16 U.S.C. 1434), the*
 13 *boundaries of the Flower Garden Banks National Marine*
 14 *Sanctuary, as designated by Public Law 102–251, are*
 15 *amended to include the area described in subsection (d),*
 16 *popularly known as Stetson Bank. This area shall be part*
 17 *of the Flower Garden Banks National Marine Sanctuary*
 18 *and shall be managed and regulated as though it had been*
 19 *designated by the Secretary of Commerce under the Na-*
 20 *tional Marine Sanctuaries Act.*

21 (b) *DEPICTION OF SANCTUARY BOUNDARIES.*—*The*
 22 *Secretary of Commerce shall—*

23 (1) *prepare a chart depicting the boundaries of*
 24 *the Flower Garden Banks National Marine Sanc-*
 25 *tuary, as modified by this section; and*

1 (2) *submit copies of this chart to the Committee*
2 *on Resources of the House of Representatives and the*
3 *Committee on Commerce, Science, and Transpor-*
4 *tation of the Senate.*

5 (c) *APPLICATION OF REGULATIONS.—Regulations is-*
6 *sued by the Secretary of Commerce to implement the des-*
7 *ignation of the Flower Garden Banks National Marine*
8 *Sanctuary shall apply to the area described in subsection*
9 *(d), unless modified by the Secretary. This subsection shall*
10 *take effect 45 days after the date of enactment of this Act.*

11 (d) *AREA DESCRIBED.—*

12 (1) *IN GENERAL.—Except as provided in para-*
13 *graph (2), the area referred to in subsections (a), (b),*
14 *and (c) is the area that is—*

15 (A) *generally depicted on the Department of*
16 *the Interior, Minerals Management Service map*
17 *titled “Western Gulf of Mexico, Lease Sale 143,*
18 *September 1993, Biologically Sensitive Areas,*
19 *Map 3 of 3, Final”;*

20 (B) *labeled “Stetson” on the High Island*
21 *Area South Addition diagram on that map; and*

22 (C) *within the 52 meter isobath.*

23 (2) *MINOR BOUNDARY ADJUSTMENTS.—The Sec-*
24 *retary of Commerce may make minor adjustments to*
25 *the boundaries of the area described in paragraph (1)*

1 *as necessary to protect living coral resources or to*
2 *simplify administration of the Flower Garden Banks*
3 *National Marine Sanctuary and to establish precisely*
4 *the geographic boundaries of Stetson Bank. The ad-*
5 *justments shall not significantly enlarge or otherwise*
6 *alter the size of the area described in paragraph (1),*
7 *and shall not result in the restriction of oil and gas*
8 *activities otherwise permitted outside of the “no activ-*
9 *ity” zone designated for Stetson Bank as that zone is*
10 *depicted on the Minerals Management Service map*
11 *entitled “Final Notice of Sale 161, Western Gulf Mex-*
12 *ico, Biological Stipulation Map Package”.*

13 *(e) PUBLICATION OF NOTICE.—*

14 *(1) IN GENERAL.—The Secretary of Commerce*
15 *shall, as soon as practicable after the date of the en-*
16 *actment of this Act, publish in the Federal Register*
17 *a notice describing—*

18 *(A) the boundaries of the Flower Garden*
19 *Banks National Marine Sanctuary, as modified*
20 *by this section, and*

21 *(B) any modification of regulations appli-*
22 *cable to that Sanctuary that are necessary to im-*
23 *plement that modification of the boundaries of*
24 *the Sanctuary.*

1 (2) *TREATMENT AS NOTICE REQUIRED UNDER*
2 *NATIONAL MARINE SANCTUARIES ACT.*—*A notice pub-*
3 *lished under paragraph (1) shall be considered to be*
4 *the notice required to be published under section*
5 *304(b)(1) of the National Marine Sanctuaries Act (16*
6 *U.S.C. 1434(b)(1)).*

7 (f) *AUTHORIZATION OF APPROPRIATIONS.*—*Amounts*
8 *may be appropriated to carry out this section under the*
9 *authority provided in section 313 of the National Marine*
10 *Sanctuaries Act, as amended by this Act.*

11 **SEC. 9. NORTHWEST STRAITS.**

12 (a) *SUBMISSION OF DOCUMENTS.*—*In the case of a*
13 *Sanctuary in the Northwest Straits of the State of Washing-*
14 *ton, on the same day the notice required by section*
15 *304(a)(1)(A) of the National Marine Sanctuaries Act is is-*
16 *sued, the Secretary of Commerce shall submit the documents*
17 *required by section 304(a)(1)(C) of the National Marine*
18 *Sanctuaries Act to the Advisory Committee established*
19 *under subsection (b). The Advisory Committee shall then*
20 *within 60 days review those documents and make rec-*
21 *ommendations to the Secretary regarding designation.*
22 *Upon receipt of the recommendations of the Advisory Com-*
23 *mittee, the Secretary shall submit the documents required*
24 *by section 304(a)(1)(A) of the National Marine Sanctuaries*
25 *Act along with recommendations of the Advisory Committee*

1 *to the Committee on Resources of the House of Representa-*
 2 *tives and the Committee on Commerce, Science, and Trans-*
 3 *portation of the Senate.*

4 **(b) NORTHWEST STRAITS MARINE RESOURCES PRO-**
 5 **TECTION ADVISORY COMMITTEE.**—(1) *There shall be estab-*
 6 *lished, within 120 days after the date of enactment of this*
 7 *subsection, the Northwest Straits Marine Resources Protec-*
 8 *tion Advisory Committee, consisting of 11 members ap-*
 9 *pointed by the Secretary, at least 8 of whom are appointed*
 10 *in accordance with paragraph (2) and at least 1 of whom*
 11 *is appointed from each of the following counties in western*
 12 *Washington: San Juan, Island, Whatcom, Skagit, Snoho-*
 13 *mish, and Clallam. This Advisory Committee shall be ex-*
 14 *empt from the Federal Advisory Committee Act.*

15 (2) *The Secretary of Commerce shall appoint members*
 16 *of the Advisory Committee from a list of individuals sub-*
 17 *mitted by each county specified in paragraph (1), in ac-*
 18 *cordance with the following requirements:*

19 (A) *A county may not submit the names of*
 20 *individuals to the Secretary for appointment un-*
 21 *less the county has determined that each individ-*
 22 *ual, by reason of his or her occupational or other*
 23 *experience, scientific expertise, or training, is*
 24 *knowledgeable regarding the conservation and*
 25 *management, or the commercial or recreational*

1 *harvest or use, of the marine resources of Puget*
2 *Sound.*

3 *(B) Each list shall include the names and*
4 *pertinent biographical data of not less than 3 in-*
5 *dividuals for each applicable vacancy and shall*
6 *be accompanied by a statement by the county ex-*
7 *plaining how each individual meets the require-*
8 *ments under paragraph (1).*

9 *(C) The Secretary shall review each list sub-*
10 *mitted by a county to ascertain if the individ-*
11 *uals on the list are qualified for the vacancy on*
12 *the basis of the requirements under subpara-*
13 *graph (A). If the Secretary determines that no*
14 *individual on a county's list is qualified, the*
15 *Secretary shall notify the county of that deter-*
16 *mination. The county shall then submit a revised*
17 *list or resubmit the original list with an addi-*
18 *tional explanation of the qualifications of the in-*
19 *dividuals in question.*

20 *(c) ADVISORY COMMITTEE REPORT.—Within 1 year of*
21 *the enactment of this Act, the Advisory Committee shall re-*
22 *port to the Secretary of Commerce on the adequacy of exist-*
23 *ing marine resources protection under local, State, and*
24 *Federal laws in the waters adjacent to the counties specified*
25 *in subsection (b)(1). This report shall recommend whether*

1 *a special resources management area is necessary to protect*
2 *the marine resources in those waters. If the Advisory Com-*
3 *mittee recommends that a special resources management*
4 *area is necessary, then the report shall specify whether that*
5 *area should constitute a non-Federal management area, a*
6 *National Marine Sanctuary, or some other form.*

7 (d) *SUBMISSION OF NORTHWEST STRAITS DRAFT EN-*
8 *VIRONMENTAL IMPACT STATEMENT.—The Secretary of*
9 *Commerce shall not issue a draft Environmental Impact*
10 *Statement under the National Environmental Policy Act*
11 *of 1969 on a Northwest Straits National Marine Sanctuary*
12 *until receipt of this report. If the Secretary issues a draft*
13 *Environmental Impact Statement, it shall include the Ad-*
14 *visory Committee’s recommendation as an alternative.*

15 (e) *AUTHORIZATION OF APPROPRIATIONS.—None of*
16 *the funds authorized to be appropriated under this Act may*
17 *be used to designate a National Marine Sanctuary in the*
18 *Northwest Straits except in accordance with this section.*